

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LEO GUY, RYAN TANNER, MAGALY  
GRANADOS, KERRY LAMONS, TAMMY  
RANO, VICK WILL, JENNIFER WHITE, as  
individuals and on behalf of all others similarly  
situated,

Plaintiffs,

vs.

CONVERGENT OUTSOURCING, INC.

Defendant.

NO. 2:22-cv-01558-MJP

**~~PROPOSED~~ FINAL APPROVAL  
ORDER AND JUDGMENT**

**~~PROPOSED~~ FINAL APPROVAL ORDER AND JUDGMENT**

Before the Court are Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement (the "Final Approval Motion")<sup>1</sup> (ECF No. 67), and Plaintiffs' Unopposed Motion for Attorneys' Fees, Costs, Expenses, and Service Awards (the "Fees, Costs, and Service Awards Motion") (ECF No. 64). Having fully considered the issues, the Court hereby **GRANTS** both the Final Approval Motion and the Fees, Costs, and Service Awards Motion and orders as follows:

<sup>1</sup> The terms of the settlement are set forth in a Settlement Agreement with accompanying exhibits attached as Exhibit A to Plaintiffs' Renewed Unopposed Motion for Preliminary Approval of Class Action Settlement (ECF No. 61) (the "Settlement").

Pursuant to the notice requirements set forth in the Settlement Agreement and in the Court's February 20, 2024 Order Granting Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"), the Settlement Class was notified of the terms of the proposed Settlement, of the right of members of the Settlement Class to opt-out or object, and of the right of members of the Settlement Class to be heard at a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether judgment should be entered dismissing this Action with prejudice.

A Final Fairness Hearing was held on July 19, 2024. Prior to the Final Fairness Hearing, on July 19, 2024, Plaintiffs filed the Fees, Costs, and Service Awards Motion, and on June 19, 2024, Plaintiffs filed the Final Approval Motion. Counsel for the parties appeared in person and via Zoom and presented arguments in support of final approval of the Settlement.

Having heard the presentation of Class Counsel and Defendant's counsel, having reviewed all of the submissions presented with respect to the proposed Settlement, having considered the Fees, Costs, and Service Awards Motion, and having reviewed the materials in support thereof, for the reasons stated on the record during the Final Fairness Hearing and for good cause appearing,

**IT IS HEREBY ORDERED** that:

1. The Final Approval Motion and the Fees, Costs, and Service Awards Motion are **GRANTED** as stated herein.

2. The Settlement, including the exhibits attached thereto, is approved as fair, reasonable, and adequate, in accordance with Rule 23(e) of the Federal Rules of Civil Procedure. This Final Approval Order and Judgment incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used herein shall have the same meaning as set forth in the Settlement Agreement unless otherwise set forth in this Order.

1           3.       Jurisdiction: The Court has jurisdiction over the subject matter of this Action and  
2 over all claims raised therein and all parties thereto, including the Settlement Class.

3           4.       The Settlement is Fair, Reasonable, and Adequate: The Court finds that the  
4 Settlement was entered into by the parties for the purpose of settling and compromising disputed  
5 claims, and is fair, reasonable, and adequate, and in the best interests of all those affected by it.  
6 The Settlement Agreement was entered in good faith following informed, arm's-length  
7 negotiations conducted by experienced counsel with the assistance of a well-respected mediator,  
8 and is non-collusive.

9           5.       Class Certification for Settlement Purposes Only: For purposes of the Settlement  
10 only, the Court finds and determines that the Action may proceed as a class action under Rule  
11 23(b)(3) of the Federal Rules of Civil Procedure, and that: (a) the Settlement Class certified  
12 herein is sufficiently numerous, as it includes approximately 640,906 people, and joinder of all  
13 such persons would be impracticable; (b) there are questions of law and fact that are common to  
14 the Settlement Class, and those questions of law and fact common to the Settlement Class  
15 predominate over any questions affecting any individual Settlement Class Member; (c) the claims  
16 of the Plaintiffs are typical of the claims of the Settlement Class they seek to represent for  
17 purposes of settlement; (d) a class action on behalf of the Settlement Class is superior to other  
18 available means of adjudicating this dispute; and (e) as set forth below, Plaintiffs and Class  
19 Counsel are adequate representatives of the Settlement Class. The proposed Class satisfies all of  
20 Rule 23's requirements, so the Court will finally certify the Settlement Class. Defendant retains  
21 all rights to assert that this action may not be certified as a class action, other than for settlement  
22 purposes.

23           6.       Class Definition: The Court hereby certifies, for settlement purposes only, a  
24 Settlement Class defined as follows:

25           All persons residing in the United States to whom Defendant Convergent  
26           Outsourcing, Inc. sent notification that their personal information may have been  
              compromised by an unauthorized individual as a result of the data security

incident discovered by Convergent on or about June 17, 2022.

Excluded from the Settlement Class are the Court and all members of the Court's staff, and persons who timely and validly request exclusion from the Settlement Class.

7. Class Notice: The approved Notice Program provided for a copy of the Short Form Notice be mailed to all members of the Class who have been identified by Defendant through its records with a mailing address, and additional notice via the Long Form Notice posted on the Settlement Website for those whose mailing addresses were not available within Defendant's records. For mailed notices returned with a forwarding address, the Settlement Administrator mailed Short Form Notices to the forwarding addresses. The Settlement Administrator maintained the Settlement Website, which provided information about the Settlement, including copies of relevant Court documents, the Settlement Agreement, the Long Form Notice, and the Claim Form. The Settlement Administrator also maintained a toll-free help line with interactive voice response and FAQs to address Settlement Class Members' inquiries.

8. Findings Concerning Notice: The Court finds and determines that the Notice Program, preliminarily approved on February 20, 2024, and implemented on March 21, 2024, constituted the best notice practicable under the circumstances, constituted due and sufficient notice of the matters set forth in the notices to all persons entitled to receive such notices, and fully satisfies the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1715, and all other applicable laws and rules. The Notice Program involved direct notice via mail and the Settlement Website providing details of the Settlement, including the benefits available, how to exclude or object to the Settlement, when the Final Fairness Hearing would be held, and how to inquire further about details of the Settlement. The Court further finds that all of the notices are written in plain language and are readily understandable by Settlement Class Members. The Court further finds that notice has been provided to the appropriate state and federal officials in accordance with the requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, drawing no objections.

1           9.       Appointment of Class Representatives: The Court appoints Leo Guy, Ryan  
2 Tanner, Magaly Granados, Kerry Lamons, Tammy Rano, Vicki Will, and Jennifer White as Class  
3 Representatives of the Settlement Class pursuant to Federal Rules of Civil Procedure Rule 23(a).

4           10.      Appointment of Class Counsel: The Court appoints Plaintiffs' attorneys Jean S.  
5 Martin of Morgan & Morgan; Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman,  
6 PLLC; Gary E. Mason of Mason LLP; and Cecily C. Jordan of Tousley Brain Stephens PLLC as  
7 Settlement Class Counsel.

8           11.      Exclusion from Class: Any person falling within the definition of the Settlement  
9 Class had the opportunity, upon request, to be excluded or "opt out" from the Class. The 55  
10 persons who opted to be excluded from the Settlement shall have no rights under the Settlement,  
11 shall not share in the distribution of the Settlement benefits, and shall not be bound by the  
12 Settlement or any final judgment entered in this Action.

13          12.      Objections and Appearances: Any Class Member had the opportunity to enter an  
14 appearance in the Action, individually or through counsel of their own choice. Any Class  
15 Member also had the opportunity to object to the Settlement and the attorneys' fees and expenses  
16 award and to appear at the Fairness Hearing and show cause, if any, why the Settlement should  
17 not be approved as fair, reasonable, and adequate to the Class, why a final judgment should not  
18 be entered thereon, why the Settlement should not be approved, or why the attorneys' fees and  
19 expenses award should not be granted, as set forth in the Court's Preliminary Approval Order.  
20 There were no objections filed in this case to either the Settlement or the attorneys' fees and  
21 expenses award. Any Settlement Class Member who did not make their objections in the manner  
22 and by the date set forth in § I of the Court's Preliminary Approval Order (ECF No. 63) shall be  
23 deemed to have waived any objections and shall be forever barred from raising such objections  
24 in this or any other action or proceeding, absent further order of the Court.

25          13.      Release: Upon the entry of this Order, the Class Representatives and all Class  
26 Members, whether or not they have filed a Claim Form within the time provided, shall be

1 permanently enjoined and barred from asserting any claims or causes of action against Defendant  
 2 and the Released Persons based on, relating to, concerning, or arising from the Security Incident  
 3 and alleged theft or misuse of Defendant's employees' or prospective employees' PII, and the  
 4 Class Representatives and all Class Members conclusively shall be deemed to have fully, finally,  
 5 and forever released any and all such Released Claims.

6 14. Attorneys' Fees and Costs: Class Counsel moved for an award of attorneys' fees  
 7 and litigation expenses on April 19, 2024, which Defendant did not oppose. Class Counsel  
 8 requested \$661,500 in attorneys' fees and litigation costs. The Court finds that Class Counsel's  
 9 request for attorneys' fees and costs is fair and reasonable, particularly in light of the results  
 10 achieved through this litigation as well as the contingent nature of the fee award. Accordingly,  
 11 Class Counsel are awarded attorneys' fees and litigation costs in the amount of \$661,500. This  
 12 amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement.

13 15. Service Awards: Plaintiffs moved for their Service Awards on April 19, 2024,  
 14 which Defendant did not oppose. Plaintiffs each requested a service award of \$1,500. The Court  
 15 finds that Plaintiffs' requests for Service Awards are fair and reasonable, particularly in light of  
 16 the results obtained for the Settlement Class as a direct result of Plaintiffs' willingness to act as  
 17 class representatives and assist Class Counsel in this litigation. Accordingly, Plaintiffs are each  
 18 awarded a Service Award in the amount of \$1,500. These amounts shall be paid from the  
 19 Settlement Fund in accordance with the terms of the Settlement.

20 16. Payment to Settlement Class Members: The Claims Administrator shall make all  
 21 required payments from the Settlement Fund in accordance with the amounts and the times set  
 22 forth in the Settlement Agreement, including all payments to Settlement Class Members who  
 23 submitted an approved claim, for the attorneys' fees and costs, for the service awards, and for all  
 24 settlement administration costs.

25 17. Funds Held by Settlement Administrator: All funds held by the Settlement  
 26 Administrator shall be deemed and considered to be *in custodia legis* of the Court and shall

1 remain subject to the jurisdiction of the Court until such time as the funds are distributed pursuant  
2 to the Settlement or further order of the Court.

3 18. Dismissal with Prejudice: The above-captioned Action is hereby **DISMISSED**  
4 **WITH PREJUDICE**. Except as otherwise provided in this Final Approval Order and Judgment,  
5 the parties shall bear their own costs and attorneys' fees. Without affecting the finality of the  
6 Judgment hereby entered, the Court reserves jurisdiction over the implementation of the  
7 Settlement, including enforcement and administration of the Settlement Agreement.

8 19. Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement  
9 (ECF NO. 67) and Unopposed Motion for Attorneys' Fees, Costs, Expenses, and Service Awards  
10 (ECF NO. 64) are **GRANTED** and Final Judgment is hereby entered.

11 20. The Clerk is directed to **CLOSE THIS CASE** and **TERMINATE** any pending  
12 motions as **MOOT**.

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14 **DONE AND ORDERED** in Seattle, WA on this 19th day of July, 2024.

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18 **HON. MARSHA J. PECHMAN**  
19 **UNITED STATES DISTRICT JUDGE**  
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1 Presented by:

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